

IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Bondary McCall, #43827-019)	
)	
Petitioner,)	C/A No. 3:07-0353
)	
vs.)	
)	
Raymond Holt;)	ORDER
Donald F. Bauknecht;)	
NFN Meeks;)	
Edith Weir;)	
Gray Miller;)	
Gee and GeCorzo,)	
)	
Respondents.)	
)	

On February 5, 2007, the petitioner, Bondary McCall, filed a petition seeking a writ of prohibition. (Doc. #1). This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Joseph R. McCrorey, to whom this case had previously been assigned. In the Report, Magistrate Judge McCrorey recommends that the District Court dismiss the petition *without prejudice* and without issuance and service of process. (Doc. #11). Plaintiff filed a motion for order to show cause and strike in which he objected to the Report and Recommendation. (Doc. #15). Although these objections were filed untimely, the Court has considered them in making this ruling.

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and

Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted). In light of this standard, the Court has reviewed the Report. Based on the facts and law before him, the magistrate judge has prepared a well reasoned Report and Recommendation analyzing the issues raised and recommending that the writ for prohibition be dismissed. After careful review of the Report and objections thereto, this Court, accepts the Report. (Doc. #11). Therefore, for the reasons articulated in the Report, it is ordered that defendant's writ of prohibition be dismissed *without prejudice* and without issuance and service of process. (Doc. #1).

IT IS SO ORDERED.

s/Terry L. Wooten

Terry L. Wooten
United States District Judge

May 4, 2007
Florence, South Carolina